



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

R. Douglas Meckes, DVM  
State Veterinarian

March 20, 2019

Tammy Owens  
Owner  
The Kennels at Wennie Hill  
241 J.A. Hampton Road  
Rutherfordton, NC 28139

**Re: REVOCATION OF BOARDING KENNEL LICENSE**  
The Kennels at Wennie Hill  
License No. 10662

Dear Ms. Owens:

Please find enclosed an Order concerning operation of the boarding kennel The Kennels at Wennie Hill ("kennel") licensed by the Animal Welfare Section ("AWS") of the North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") pursuant to NCGS § 19A-28. Based on a complaint investigation and subsequent facility compliance inspection ("FCI"), it is apparent that the kennel willfully disregarded and violated regulations promulgated under the North Carolina Animal Welfare Act ("AWA"). You were provided with the AWA and the rules promulgated thereunder with your license application.

Investigation and inspection of the kennel demonstrated serious deficiencies in the care of the animals in its custody, the maintenance of required records and the compliance with the rules promulgated pursuant to the AWA. The results of the complaint investigation and the subsequent FCI of the kennel, indicate that grounds exist for revocation of your license as a boarding kennel.

The Order describes in detail the factual basis for your boarding kennel license revocation. Based on the kennel's willful disregard of the regulations promulgated under the AWA, as set forth more fully in the enclosed Revocation Order, your boarding kennel license is hereby REVOKED pursuant to NCGS § 19A-30(2), (3) and (8). This Order of Revocation is effective on the fifth day after you receive it.

Therefore, you are notified to CEASE AND DESIST operation of the kennel located at 241 J.A. Hampton Road, Rutherfordton, NC within five days of receipt of this letter. Due to severity of the unsanitary conditions, you are directed to immediately cease intake of any additional animals for boarding. You are required to surrender to AWS the boarding kennel license issued to you for this kennel within 5 days of the revocation becoming effective.

If you continue to operate this kennel after the fifth (5<sup>th</sup>) day following receipt of this letter, AWS has the authority to seek legal relief and to impose a civil penalty of up to five thousand dollars (\$5,000.00) per violation pursuant to NCGS § 19A-40. Pursuant to NCGS § 19A-33, operation of a boarding kennel without a currently valid license shall constitute a Class 3 misdemeanor and each day of operation shall constitute a separate offense.

In addition, pursuant to NCGS § 19A-30:

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, NCGS § 150B-23, within five (5) days of the Order of Revocation becoming effective. Filing a petition will require a payment of twenty dollars (\$20.00) to the North Carolina Office of Administrative Hearings (see below, "Appeal").

### **APPEAL**

If you file a contested case petition, it must be in writing and in the form prescribed by NCGS § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at (919) 431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 431-3000.

You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse  
North Carolina Department of Agriculture and Consumer Services  
Registered Agent and General Counsel  
1001 Mail Service Center  
Raleigh, NC 27699-1001

Should you wish to discuss this matter or how to proceed going forward, you may contact Dr. Norris at (919) 707-3280. Discussions do not enlarge the deadline to file an appeal.

Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Norris, DVM, MS". The signature is fluid and cursive, with the first name "Patricia" being more prominent.

Dr. Patricia Norris, DVM,  
Director, Animal Welfare Section  
Veterinary Division, NCDA&CS

Enclosures

cc: Joseph Reardon, Assistant Commissioner, NCDA&CS  
Dr. R. Douglas Meckes, DVM, State Veterinarian, NCDA&CS  
Tina Hlabse, General Counsel, NCDA&CS  
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER SERVICES,  
VETERINARY DIVISION, ANIMAL WELFARE  
SECTION

IN THE MATTER OF  
TAMMIE OWENS  
OWNER OF THE  
KENNELS AT WENNIE HILL

) NOTICE of VIOLATIONS and  
) ORDER of REVOCATION  
) for VIOLATIONS of TITLE 02 N.C  
) NC ADMINISTRATIVE CODE (NCAC)  
) CHAPTER 52J, SECTIONS .0102(1) – (3);  
) .0103; .0201(e) and (k); .0202(b), (d) and (e);  
) .0203(a) and (b); .0204(a) - (d) and (g); .0206;  
) .0207(a), (b)(3), (b)(6) and (c); .0210(c) and (d).

Acting pursuant to NCGS §19A-30(2), (3), and (8), Dr. Patricia Norris, Director of the Animal Welfare Section ("AWS"), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

**FINDINGS OF FACT**

1. At all times pertinent to this matter, The Kennels as Wennie Hill ("the kennel"), located at 241 J.A. Hampton Road, Rutherfordton, NC ("the kennel"), operated by Tammie Owens, was a boarding kennel, registered pursuant to N.C. General Statute ("NCGS") § 19A-28.
2. During the facility compliance inspection ("FCI") on January 19, 2018, the kennel was cited for violation of 02 NCAC 52J .0201(e); .0202(d) and .0207(a), (b) and (c). The facility was given 5 days to correct the violations.
3. During the FCI on May 24, 2018, the kennel was cited for violation 02 NCAC 52J .0103 and .0201(j). On May 29, 2018, a Civil Penalty was assessed against the kennel for violations of 02 NCAC 52J .0201(j) due to repeated failures to make the facility available for inspection during business hours.
4. On the kennel's license renewal application dated June 13, 2018, Ms. Owens checked that the kennel "ensures that all dogs and cats 4 months of age and older remain current with rabies vaccinations."
5. During the FCI on July 19, 2018, the kennel was cited for violation of 02 NCAC 52J .0102(1); .0103; and .0204(c). The Inspector noted he discussed:
  - a. records were required for all animals in the facility;
  - b. all animals at the facility were required to be properly vaccinated for rabies; and
  - c. proper sanitation and ventilation of the facility was required.
6. On March 5, 2019, AWS received a complaint concerning the care of the animals and conditions present at the kennel. Based on this information, AWS opened an investigation in coordination with Rutherford County Animal Control Office. The complaint investigation and subsequent investigation revealed the following:
  - a. Before the owner opened the door to the kennel, a strong noxious odor was noted by the

Animal Health Technician Jay Blatche ("Inspector Blatche") and Animal Control Officers ("ACOs") outside of the facility.

- b. The Inspector and ACOs noted immediately upon entry into the facility that their eyes were burning due to the overwhelming smell, which also made it difficult for them to breathe.
  - c. The kennel owner relayed that the ventilation system, which had not been cleaned and showed a significant buildup of hair and debris, had been shut off because she felt the system was drawing too much power and was removing the heat from the building.
  - d. The boarding facility had 37 total animals present. Of these animals, 22 appeared to be owned by Ms. Owens. Based on the physical appearance and coat condition, 15 of those animals appeared to be boarding animals. Ms. Owens could not produce paperwork for any of the animals.
  - e. In addition, Ms. Owens could not produce the paperwork for any of the animals that had previously boarded at the facility during the past year.
  - f. Ms. Owens could not produce evidence of current rabies vaccinations for any of the animals in the facility that appeared to be older than 4 months of age.
  - g. A blind, elderly dog in one of the kennel's enclosures had not received veterinary care that it appeared to need from a visual assessment. Ms. Owens claimed this dog as a personal dog.
  - h. All the enclosures and common areas of the boarding facility had a significant buildup of urine, fecal matter and food wastes, consistent with failure to clean these areas for several days.
  - i. A sewage line just outside of the kennel housing facility was ruptured allowing sewage to spill outside next to the building.
  - j. The floors and walls of the interior building facility were not impervious to moisture and could not be readily sanitized. Damaged wood was accessible to the animals in some of the primary enclosures.
  - k. The outside kennels had not been properly sanitized, and the surfaces were not impervious to moisture and could not be readily sanitized.
  - l. The play areas had a buildup of fecal matter and the gravel was less than 6 inches in depth.
  - m. Kennels 4, 5, 6, and 7 were in poor repair with broken fencing with sharp edges that posed a risk of injury to the animals.
  - n. 4 dogs were housed in a single crate without supervision. The crate was not large enough to allow the dogs to walk, turn about freely, or to easily stand, sit or lie in a natural position.
  - o. There were several other kennels housing several animals. These kennels were also not large enough for the dogs to walk, turn about freely, or to easily stand, sit or lie in a natural position.
  - p. The primary enclosures were not provided with a solid resting surface adequate to comfortably hold all occupants of the primary enclosure at the same time.
  - q. A cat with newborn kittens was present in a primary enclosure that was not clean and did not contain a receptacle with clean litter.
  - r. Several dogs did not have continuous access to water in their primary enclosures.
  - s. The premises were overrun with weeds, debris and fecal matter. The premises were not free of accumulations of trash, junk, waste products and discarded matter and the weeds were not controlled.
7. The kennel has failed to provide adequate housing facilities and adequate primary enclosures for the purposes of the AWA, and the watering, sanitizing and housing practices at the shelter are not consistent with the intent of the AWA or the rules adopted under the AWA as evidenced by the violations of 02 NCAC 52J, Sections .0201(e) and (k); .0202(b), (d) and (e); .0204(a) - (d); .0206; and .0207(a), (b)(3), (b)(6) and (c).

## CONCLUSIONS

1. As a result of this investigation, AWS finds that the kennel, either by act or omission, violated 02 NCAC 52J Sections .0102(1) – (3); .0103; .0201(e) and (k); .0202(b), (d) and (e); .0203(a) and (b); .0204(a) – (d) and (g); .0206; .0207(a), (b)(3), (b)(6) and (c); and .0210(c) and (d).
2. Pursuant to NCGS § 19A-30, the Director of the AWS has the authority to suspend or revoke a license for any boarding kennel.
3. One of the purposes of the AWA is to ensure that animals confined in kennels are provided humane care and treatment.
4. Based on the findings of this investigation, as further detailed in the incorporated reports, AWS concludes that:
  - a. the kennel has willfully disregarded and violated the AWA and its associated rules; and
  - b. the kennel has failed to provide adequate housing facilities and primary enclosures for the purposes of the AWA and the sanitizing and housing practices at the boarding kennel are not consistent with the intent of the AWA or its rules; and
  - c. the kennel fails to possess the necessary qualifications or to meet the requirements of the AWA for the holding of a license as a boarding kennel; and
  - d. allowing the kennel to continue to operate under these conditions would be contrary to the purpose and intent of the AWA.

## DECISION

Based on all the above, the boarding kennel license issued to The Kennels at Wennie Hill, License No. 10662, is hereby REVOKED effective on the fifth day following receipt of this Order.

March 22, 2019

Date

Patricia Norris, DVM, MS

Patricia Norris, DVM, MS  
Director of Animal Welfare Section  
Veterinary Division, NCDA&CS

## Appendix

### RELEVANT LAWS AND REGULATIONS

#### **§ 19A-28. License required for public auction or boarding kennel.**

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year.

#### **§ 19A-30. Refusal, suspension or revocation of certificate or license.**

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the

violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

**§ 19A-33. Penalty for operation of pet shop, kennel or auction without license.**

Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a Class 3 misdemeanor subject only to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a separate offense.

**§ 19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

**02 NCAC 52J .0102 RECORDS; BOARDING KENNELS**

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (1) name and address of owner or person responsible for animal, the date of entry and signature and address of individual to whom animal is released and the date of release;
- (2) description of animal including breed, sex, age and color marking; and
- (3) veterinary care provided while boarded, which shall include date, times, description of medication (including name and dosage) and initials of person administering product or procedure.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005.*

**02 NCAC 52J .0103 INSPECTION OF RECORDS**

All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall make all required records available to the director or his authorized representative on request, during the business and cleaning hours listed on the license application. The operator must be able to match each animal to its record upon request. Records shall be maintained for a period of one year after the animal is released.

*History Note: Authority G.S. 19A-24; 19A-25;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005; April 1, 1985*

**02 NCAC 52J .0201 GENERAL**

(e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.

(k) All animals in a facility are subject to the requirements of the Animal Welfare Act, regardless of ownership.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005.*



## **02 NCAC 52J .0202      INDOOR FACILITIES**

(b) Indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. The facilities shall be provided with fresh air either by means of windows, doors, vents or air conditioning and shall be ventilated so as to minimize drafts. Air flow shall be adequate to minimize odors and moisture condensation.

(d) Interior building surfaces of indoor facilities with which animals come in contact shall be constructed and maintained so that they are impervious to moisture, and can be readily sanitized.

(e) A suitable method of drainage shall be provided to rapidly eliminate excess water from an indoor housing facility. If closed drain systems are used, they shall be equipped with traps and installed to prevent odors and backup of sewage. The drainage system shall be constructed to prevent cross-contamination among animals.

*History Note:      Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005.*

## **02 NCAC 52J .0203      OUTDOOR FACILITIES**

(a) In outdoor facilities that are subject to the Animal Welfare Act, primary enclosures and walkways with which an animal comes in contact shall be constructed of sealed concrete or other surfaces impervious to moisture. Gravel may be used if maintained at a minimum depth of six inches and kept in a sanitary manner.

(b) Dogs and cats kept outdoors shall be provided housing to allow them to remain dry and comfortable during inclement weather. Housing shall be constructed of material which is impervious to moisture and which can be disinfected. One house shall be available for each animal within each enclosure except for a mother and its unweaned offspring.

*History Note:      Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. March 23, 2009; January 1, 2005.*

## **02 NCAC 52J .0204      PRIMARY ENCLOSURES**

(a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

(b) Primary enclosures for dogs and cats shall be structurally sound and maintained in good repair and in a manner to prevent injury to animals and keep other animals out. Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, urn about freely, and to easily stand, sit, or lie in a natural position. The height of a primary enclosure other than a cage shall be no less than five feet. All enclosures shall be constructed to prevent the escape of animals.

(c) Each primary enclosure shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time. All resting surfaces must be of a non-porous or easily sanitized material, such as a towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

(d) In addition to Paragraph (b) of this Rule, each dog shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, then divide the product by 144. The calculation is:  $(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6) = \text{required floor space in square inches}$ .  $\text{Required floor space in square inches} \div 144 = \text{required floor space in square feet}$ . The calculation shall be expressed

in square feet. Not more than four adult dogs shall be housed in the same primary enclosure without supervision.

(g) In all cat enclosures, a receptacle containing clean litter shall be provided for waste. A minimum of one receptacle per three cats is required.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005; April 1, 1985.*

## **02 NCAC 52J .0206 WATERING**

Animals shall have continuous access to fresh water, except as might otherwise be required to provide adequate veterinary care. Watering receptacles shall be durable and kept clean and sanitized. Damaged receptacles shall be replaced.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005.*

## **02 NCAC 52J .0207 SANITATION**

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitation shall be as follows:

- (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.
- (2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.
- (3) Cages, rooms and hard-surfaced pens or runs shall be sanitized by:
  - (A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or
  - (B) washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant; or
  - (C) cleaning all soiled surfaces with live steam.
- (4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.
- (5) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.
- (6) Any area accessible to multiple animals shall be kept clean and sanitary.

(c) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Rule. Premises shall remain free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and to improve pest control, and to protect the health and well-being of the animals.

*History Note:* Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005; April 1, 1985.

**02 NCAC 52J .0210 VETERINARY CARE**

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

(d) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days.

*History Note:* Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. March 23, 2009; January 1, 2005.